(28)

HIGH COURT OF CHHATTISGARH: BILASPUR

Writ Petition (C) No. 3500 of 2007

Petitioners

1. Smt. Devmati Thakur, aged about 70 years, widow of late Jhuru Singh.
2. Santosh Singh, aged 40 years, s/o late Jhuru Singh
3. Naresh Singh, aged 37 years, S/o late Jhuru Singh
4. Smt. Meena Singh, aged 42 years, W/o Devi Singh.
5. Smt. Kanya Kumari aged 34 years, W/o Santosh Singh.

All above R/o near Jatiya Talab, Jarhabhata, Bilaspur (C.G.)

Versus

Respondents

1. State of Chhattisgarh, through – Collector, Bilaspur, District Bilaspur (C.G.)
2. Officer In-charge (Manager), Government Poultry form, Koni, District Bilaspur (C.G.)

(Writ Petition under Article 227 of the Constitution of India)

SB: Hon'ble Mr. Justice Satish K. Agnihotri

Present: Shri Ravish Verma, counsel for the petitioner.
Shri A. S. Kachhawaha, Govt. Advocate for the State/ respondents.

ORDER
(Passed on this 25th June, 2007)

(1) By this petition filed under Article 227 of the Constitution of India, the petitioners challenge the legality and validity of the impugned order dated 03.04.2007(Annexure P-1) passed by the Additional District Judge, Bilaspur in Miscellaneous Civil Appeal No.13/ 2006, whereby the order dated 28.02.2006 passed by the 9th Civil Judge Class-II, Bilaspur in Miscellaneous Civil Suit No. 5/ 2006 was confirmed and Miscellaneous Civil Appeal was rejected.

(2) The indisputable facts, in nutshell, are that the petitioners/ plaintiffs filed a Civil Suit before the 9th Civil Judge Class-II, Bilaspur for declaration and permanent injunction. In the pending suit, the petitioners/plaintiffs filed an application under Order 39 Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908, seeking interim injunction against the respondents/defendants. The 9th Civil Judge Class-II, Bilaspur, after having considered all the facts, documents and submissions of

29

the parties, came to the conclusion that the petitioners have not made out a prima facie case for grant of interim injunction and the balance of convenience and irreparable loss to the petitioners have also not been established.

(3) Being aggrieved and dissatisfied with the order dated 28-02-2006, the petitioners/plaintiffs filed an appeal, being Miscellaneous Civil Appeal No. 13/2006 before the Additional District Judge, Bilaspur, wherein the court below, after having examined the case in detail, came to the conclusion that the petitioners have failed to prove asto which is the land in dispute, on which they were seeking interim injunction, as no documents were produced by the petitioners/plaintiffs to establish the case. In view of that, the learned Additional District Judge confirmed the finding and the order passed by 9th Civil Judge Class-II, Bilaspur and dismissed the appeal.

(4) I have heard learned counsel appearing for the petitioners/plaintiffs, examined the pleadings and documents appended thereto. I am of the opinion that there is no infirmity, irregularity or procedural error in the impugned order passed by the court below so asto warrant interference by this Court under supervisory jurisdiction.

(5) It is well settled principle of law that under Article 227 of the Constitution of India, this Court has jurisdiction of judicial review of the order passed by the Court below, in the event, there is manifest and apparent error on the face of the proceedings based on the clear ignorance or utter disregard to the provisions of law or there is grave failure of justice or grave injustice has occasioned thereby. Further, this Court can also entertain the petition in its supervisory jurisdiction if there is perversity, irregularity or illegality in the process of decision, not in the decision itself, which is not in the present case.

(6) As a result and for the reasons aforestated, this petition is dismissed, summarily.

Sd/-
Satish K.Agnihotri
Judge

Karuna